REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claim 22 has been amended to correct a typographical error.

Applicants believe that the above change answers the Examiner's objection to claim 22, and respectfully request withdrawal thereof.

The Examiner has rejected claims 1-6, 9-11, 13-16 and 18-22 under 35 U.S.C. 103(a) as being unpatentable over International Patent Application No. WO 99/25107 to Frank et al., in view of U.S. Patent 6,911,592 to Futamase et al. The Examiner has further rejected claims 7, 8 and 17 under 35 U.S.C. 103(a) as being unpatentable over Frank et al. in view of Futamase et al., and further in view of U.S. Patent Application Publication No. 2002/0136231 to Foschini et al.

The Frank et al. reference discloses call setup in mobile systems, in which a mobile terminal in the system includes "output means able to generate a human perceptual signal", "a transmitter able to transmit a human non-perceptual signal" and "a control unit configured to control the output means to create a representation of the human perceptual signal, and to instruct the transmitter to broadcast a human non-perceptual signal comprising the representation". However, as noted by the Examiner, "Frank does not explicitly show that the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic

device and less noticeable if it is received from a remote further electronic device."

The Futamase et al. patent discloses a portable telephone apparatus with music tone generator.

The Examiner now indicates that Futamase et al. discloses the limitation "the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device", and points out col. 4, lines 43-58, col. 5, lines 39-58 and col. 10, lines 42-58.

Applicants believe that the Examiner is mistaken. In particular, Futamase et al., at col. 4, lines 43-58, states:

> "To sum up, according to the present invention, a tone generator capable of sounding two or more tones at a time is arranged in a sounding control apparatus in a portable terminal apparatus to impart a timbre and an effect for example to a generated tone on the basis of configuration information associated with tone sounding. This novel constitution reproduces music, which is various in kind and rich in musicality as ringing melodies, BGM sounded during talking, and music, which entertains the user as desired. In the present invention, each piece of information including music tone information can be captured any time from external information sources such as base station, personal computer, other telephone terminals, and small-size or compact storage media, which enhances system extensibility, thereby reproducing a wide range of a variety of music as ringing melodies and BGM for example."

This section indicates that the apparatus of Futamase et al. includes a tone generator and that the apparatus may capture music tone information from external information sources.

Further, at col. 5, lines 39-58, Futamase et al. states:

> "In carrying out the invention and according to an aspect of changing the tempo of music information, there is provided a portable terminal apparatus that comprises a storage means for storing music information, a tempo specifying means or section for specifying a tempo, and a control means for controlling, according to the tempo specified by the tempo specifying means, the tempo of a tone to be sounded on the basis of the music information stored in the storage means. The portable terminal apparatus allows the user to specify a tempo by use of at least one of parameters. The parameters include an absolute value of the tempo (a numerical value), a word indicative of the tempo (such as "allegro" and "moderato"), a rate of change from a reference tempo (% or .+-.), and an intuitive word ("quick", "slow" or "moderate"). Thus, the user can use an operator of the portable terminal apparatus (main unit) to specify a tempo so as to control the performance tempo of sounding music such as a ringing melody or BGM."

This section of Futamase et al. indicates that the tempo of the music information may be changed, e.g., by the user.

Finally, at col. 10, lines 42-58, Futamase et al. states:

> "The receiver/transmitter 6 has a communication antenna and communicates with other telephone terminals via a base station (or a server station or a repeater station) for talking. This circuit is also used for requesting and receiving music information and configuration information. The audio controller 7 controls voice signals at talking and tone input/output signals. This controller has a voice transmitting capability for transmitting an input voice from a microphone (MIC) 17 to the receiver/transmitter 6, a voice reproducing capability for sending a talk voice signal received at the receiver/transmitter 6 to a talk speaker 15 and an external output terminal 16, and BGM reproducing capability for sending a tone signal received from the sounding controller 8 to the talk speaker 15 and the output terminal 16."

This section of Futamase et al. indicates that the apparatus (receiver/transmitter 6) has a communication antenna for communicating with other terminals, the circuit is used to

request/receive music information, and has BGM (background) reproducing capability for sending a tone signal to the talk speaker and output terminal.

Applicants submit that from the above, it should be clear that Futamase et al. neither discloses nor suggests "the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device".

The Foschini et al. reference discloses a time division multiple access over broadband modulation method and apparatus.

Claims 7 includes the limitation "further comprising is a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a level of occupation of a transmission medium, and the control unit is able to instruct the transmitter to adapt its transmission power in dependency of the level of occupation".

The Examiner now states that Foschini et al. teaches this limitation at page 4, paragraph [0034].

Applicants believe that the Examiner is mistaken. In particular, the noted paragraph in Foschini et al. states:

> "[0034] FIG. 1 is a block diagram of an exemplary communication system 100 with exemplary network architecture. One or more sources 101 are coupled via appropriate communication links 102 to deliver source information to a headend 103, which distributes the source information to one or more distribution hubs 105 via respective communication links 104. Each distribution hub 105 further distributes source information to one or more nodes 107 via communication

> links 106, where each node 107 in turn distributes the source information to one or more subscriber locations 109 via subscriber links 108. In the embodiment shown, bi-directional communication is supported in which upstream subscriber information from any one or more of the subscriber locations 109 is delivered to the corresponding distribution hub 105 via the corresponding subscriber links 108. Depending upon the nature of the subscriber information and the network architecture, the subscriber information may be delivered to the headend 103, or to an appropriate source 101, by the corresponding distribution hub 105. Again, depending upon the nature of the subscriber information and the network architecture, the subscriber information may be further delivered to an appropriate source 101 by the headend 103."

After reviewing the above section, it should be apparent that Foschini et al. neither discloses nor suggests the claim 7 limitation "further comprising is a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a level of occupation of a transmission medium, and the control unit is able to instruct the transmitter to adapt its transmission power in dependency of the level of occupation".

In view of the above, Applicants believe that the subject invention, as claimed, is not rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-11 and 13-22, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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